

Congress of the United States
House of Representatives
Washington, DC 20515–0545

March 23, 2021

The Honorable Nancy Pelosi
Speaker of the House
H-232, The Capitol
Washington, DC 20515

The Honorable Chuck Schumer
Majority Leader
322, Hart Senate Office Building
Washington, DC 20510

Dear Speaker Pelosi and Senator Schumer:

We write to request an update on the status of your appointment of the fifth member of the Congressional Oversight Commission (the Commission): the Chairperson of the Commission. With the recent departure of Bharat Ramamurti, the Commission is now functioning with only three of the statutorily required five members and thus is significantly impaired in its oversight capabilities.

Among the Coronavirus Aid, Relief, and Economic Security (CARES) Act's most significant provisions is the establishment of a Congressional Oversight Commission tasked with monitoring the government's authority to spend \$500 billion in bailout funds made available by that same legislation. The Commission is solely focused on the \$500 billion authorized to the United States Department of the Treasury (the Treasury), the vast majority of which is without meaningful statutory restrictions. A year after the enactment of the CARES Act, the Commission still lacks a Chair. Though the Treasury's authority to issue new loans and guarantees terminated on December 31, 2020, companies can draw on approved loan balances until March 26, 2021, and remaining funds can still be used to support existing transactions until 2026.¹

In creating the Commission, Congress made clear its intent that the bailout funds authorized in Title IV of the CARES Act be spent wisely and consistently with the goals articulated in that law. The American people deserve rigorous and thoughtful oversight of this taxpayer-funded relief to American businesses and industries hurt by the novel coronavirus, including but not limited to scrutiny of the use of funds already disbursed under Title IV. It is the statutory duty of the Congressional Oversight Commission to perform that scrutiny.

¹ Andrew P. Scott, Marc Labonte, Rachel Y. Tang, Ben Wilhelm, "Treasury and Federal Reserve Financial Assistance in Title IV of the CARES Act (P.L. 116-136)," *Congressional Research Service* (updated January 2021) at: <https://crsreports.congress.gov/product/pdf/R/R46329>

To use any of its five oversight powers—such as the power to conduct hearings—the Commission must convene a vote and secure a majority in favor of the action. As you know, the Senate Majority and Minority Leaders, House Speaker, and House Minority Leader each appoint one member to the Commission. The Speaker and the Majority Leader must agree on a fifth individual to fill the role of the Chair.² For so long as the Commission lacks full membership—in particular a Chairperson—the body’s oversight capabilities are severely limited.

With what limited investigatory authority it has thus far harnessed, the Commission has identified concerning transactions that demand a more thorough probe. For example, in June 2020, the Treasury issued a \$700 million loan to a trucking company called YRC Worldwide. The Treasury’s authority to issue direct support is limited to three specific industries: passenger and cargo airline industries, as well as certain national security businesses. Public disclosures do not indicate on what grounds Treasury identified a business to be critical to national security, but YRC Worldwide did not meet either of the two definitions the Treasury established to identify such businesses.³

According to the Commission in its third report, “the risk of loss of U.S. taxpayer money on this loan appears high. In fact, the Commission notes that the level of risk taken in the loan to YRC appears strikingly higher than the risks associated with the other facilities over which the Commission has oversight. YRC has been rated non-investment grade for over a decade, struggled financially for years before the COVID-19 crisis, and was at risk of bankruptcy before it obtained a loan from the Treasury.”⁴ In addition to flagging this concerning transaction in its third report, the Commission continued to request additional information related to the YRC loan from the Department of Defense and the Treasury, which it noted in its fourth, fifth, sixth, seventh, eighth, and ninth reports. The Commission has pressed on in its investigation efforts related to the YRC loan, with a letter to General Stephen R. Lyons of the U.S. Transportation Command sent on January 25, 2021.⁵

Given the continued need for oversight of this and all transactions under Title IV of the CARES Act, we urge that there be no further delay in the completion of the Commission’s membership, particularly the role of Chairperson. We appreciate your consideration of this request and ask that you provide a response articulating your intended process for swift appointments.

Sincerely,

Katie Porter
Member of Congress

Sheldon Whitehouse
United States Senator

² Coronavirus Aid, Relief, and Economic Security (CARES) Act, Section 4020(c)

³ “The Third Report of the Congressional Oversight Commission,” (July 2020) at: https://coc.senate.gov/sites/default/files/2020-08/20200720_Congressional_Oversight_Commission_3rd_Report.pdf

⁴ Id.

⁵ “The Tenth Report of the Congressional Oversight Commission,” (February 2021) at: https://coc.senate.gov/sites/default/files/2021-02/COC%20Tenth%20Report%20February%2026%20FINAL_1.pdf